PTO/SB/21 (09-04) Approved for use through 07/31/2006. OMB 0651-0031 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE are required to respond to a collection of information unless it displays a valid OMB control number. Application Number 10/757,819 Filing Date January 15, 2004 First Named Inventor Fred J. Molz IV Art Unit 3774 **Examiner Name** Javier G. Blanco (to be used for all correspondence after initial filing) Attorney Docket Number MSDI-667/PC860.00 Total Number of Pages in This Submission **ENCLOSURES** (Check all that apply) After Allowance Communication to TC Fee Transmittal Form Drawing(s) Appeal Communication to Board Licensing-related Papers Fee Attached of Appeals and Interferences Appeal Communication to TC Petition (Appeal Notice, Brief, Reply Brief) Amendment/Reply Petition to Convert to a Proprietary Information Provisional Application After Final Power of Attorney, Revocation Status Letter Change of Correspondence Address Affidavits/declaration(s) Other Enclosure(s) (please Identify Terminal Disclaimer **Extension of Time Request** below): Return Receipt Postcard Request for Refund **Express Abandonment Request** CD, Number of CD(s) Information Disclosure Statement Landscape Table on CD Certified Copy of Priority Remarks Document(s) Reply to Missing Parts/ Incomplete Application Reply to Missing Parts under 37 CFR 1.52 or 1.53 SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT Firm Name Krieg DeVault LLP Signature Printed name Brad A. Schepers

CERTIFICATE OF TRANSMISSION/MAILING I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below: Signature Typed or printed name Brad A. Schepers Date May 27, 2008

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45,431

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This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

MAY 3 0 2008 BY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:)	Before the Examiner:
Fred J. Molz IV)	Javier G. Blanco
Serial No.: 10/757,819) .	Group Art Unit: 3774
Filed: January 15, 2004))	Attorney Docket: MSDI-667/ PC860.00
SPINAL IMPLANT CONSTRUCT AND METHOD FOR IMPLANTATION)	
MICI DOD FOR IMPLANTATION)	

RESPONSE TO NON-FINAL OFFICE ACTION

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

In response to the non-final Office Action dated February 26, 2008, please enter and consider the following amendments and remarks. The Applicant notes that the three (3) month period for responding to the non-final Office Action was May 26, 2008, which fell on a federal holiday, thereby extending the response period to May 27, 2008 (the first business day after May 26, 2008). Please charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

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May 27, 2008

Date of Deposit

Brad A. Schepers

Name of Repstered Representative

Signature

May 27, 2008

Date of Signature

INTRODUCTORY COMMENTS

Claims 3-24, 27-34, 63-71, 73-85 and 87-90 were pending in the subject application for the non-final Office Action dated February 26, 2008. Claims 4, 5 and 16 have been withdrawn from consideration as being drawn to a non-elected species of the invention. The remaining claims have been rejected on various grounds. In view of the following amendments and remarks, reconsideration and allowance of the subject application are hereby requested.